



**Montana Department of
ENVIRONMENTAL QUALITY**

Brian Schweitzer, Governor

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EXHIBIT 2
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SB 102

**Senate Bill 102
Department of Environmental Quality Proponent Testimony
House Natural Resources Committee
March 4, 2009**

The Water Supplies, Distribution, and Treatment Act requires a proposed public water or wastewater system to submit plans and specifications for Department review and approval prior to construction. Once constructed, the Act does not specifically require that an operating system maintain the condition of critical safety components such as well pumps, storage, or distribution. In addition, systems in operation prior to the adoption of the plan and specification review requirement have historically been "grandfathered" as construction standards may not have previously applied. The existing federal Surface Water Treatment Rule (SWTR), the Revised Lead and Copper Rule (LCR), and the new Groundwater Rule (GWR) contain requirements for existing systems to repair significant deficiencies. Even though we thought the authority existed when the Department adopted the revisions to Surface Water and Lead and Copper Rules a few years ago, the Department's Legal Unit has determined that the Department does not have clear authority to require repair of significant deficiencies. The Department does not propose to require every existing system to meet all new construction standards as they are updated, only to require updating significant problem areas with the potential to have immediate adverse public health risks to humans or the environment.

In order to maintain EPA approval to implement drinking water standards in Montana the Department must adopt rules at least as stringent as the federal requirements. The SWTR, the LCR, and the new GWR require that states have the ability in regulation to assure systems repair significant deficiencies. The GWR and SWTR require states to evaluate 8 specific categories when conducting sanitary surveys which are; the water source, treatment, distribution system, finished water storage, pumps and controls, monitoring and reporting data, management and operations, and operator certification compliance to determine whether any significant deficiencies exist. If a deficiency is identified in one of these areas, the system is required to repair or establish a plan to repair it within federally mandated time frames. What constitutes a significant deficiency that would require correction is defined in the statute in part as "... defects in design, operation, or maintenance of a public water supply system or public sewage system in order to prevent or correct introduction of contamination into water used for a public water supply ..."

Because the designation of a significant deficiency requires the system to resolve that deficiency within a mandated timeframe, it is important that only those situations which have a high potential for adversely affecting public health be classified as a significant deficiency. For this reason, the Department chooses to develop a Significant Deficiency

Review Committee to make determinations as to whether a deficiency is significant or not.

In closing, the Department is only asking for a clarification in the statutes for authority that was thought to exist previously and is required by federal regulations. Thank you for your consideration.